

CONTRACT NO. 09-0130-10

ALL OFFERORS:

The enclosed packet contains an "INVITATION TO BID" for Ludlum Digital Survey Meters, Model 2241-2. The proposal consists of the following documents:

INVITATION TO BID - CONTRACT NO. 09-0130-10

- 1 DEFINITIONS and GENERAL PROVISIONS
- 2 SPECIAL PROVISIONS, INVITATION TO BID, AND SCOPE OF WORK
- 3 PROPOSAL REPLY SECTION
 - A - NO PROPOSAL REPLY FORM
 - B - PROPOSAL BOND
 - C - NON-COLLUSION STATEMENT AND ACCEPTANCE
 - D - PROPOSAL SUMMARY

Your proposal and the proposal reply section must be executed completely and correctly and returned to the address below by 2:00PM EST Monday, December 15, 2008 to be considered.

**Department of Safety and Homeland Security
Secretary's Office - Central Fiscal Office
Blue Hen Corporate Center
655 S. Bay Road, Suite 5N
Dover, Delaware 19901**

The definitions and general provisions apply and are a part of this INVITATION TO BID. Should the General Provisions conflict with the Special Provisions, the Special Provisions shall prevail. Bidders or their authorized representatives are required to fully acquaint themselves as to State procurement laws and regulations prior to submitting a proposal.

Please review and follow the information and instructions contained in the General Provisions, Special Provisions and this INVITATION TO BID. Should you need additional information, please call Daniel Rose at (302)659-2231.

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DEFINITIONS

Whenever the following terms are used, their intent and meaning shall be interpreted as follows:

STATE: The State of Delaware.

AGENCY: Contracting State Agency as noted on the cover sheet.

DESIGNATED OFFICIAL: The agent authorized to act for the Agency.

INVITATION TO BID: The "INVITATION TO BID" or "ITB" is a packet of material sent to vendors and consists of General Provisions, Special Provisions, Specifications, and Enclosures.

GENERAL PROVISIONS: General Provisions are instructions pertaining to contracts in general. They contain, in summary, requirements of laws of the State, policies of the Agency and instructions to vendors.

SPECIAL PROVISIONS: Special Provisions are specific conditions or requirements particular to the contract under consideration and are supplemental to the General Provisions, the Special Provisions shall prevail.

BIDDER OR VENDOR: Any individual, firm, or corporation formally submitting a proposal for the material or work contemplated, acting directly or through a duly authorized representative.

PROPOSAL: The offer to the bidder submitted on the approved form and setting forth the bidder's prices for performing the work or supplying the material or equipment described in the specifications.

SURETY: The corporate body which is bound with and for the contract, or which is liable, and which engages to be responsible for the contractor's payments of all debts pertaining to and for his acceptable performance of the work for which he has contracted.

BIDDER'S DEPOSIT: The security designated in the proposal to be furnished by the bidder as a guaranty of good faith to enter into a contract with the Agency if the work to be performed or the material or equipment to be furnished is awarded to him.

CONTRACT: The written agreement covering the furnishing and delivery of material or work to be performed.

CONTRACTOR: Any individual, firm, or corporation with whom a contract is made by the Agency.

CONTRACT BOND: The approved form of security furnished by the contractors and his surety as a guaranty of good faith on the part of the contractor to execute the work in accordance with the terms of the contract.

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GENERAL PROVISIONS

SECTION A – PROPOSAL

1. INVITATION TO BID: See “Definitions”
2. PROPOSAL FORMS: The Invitation to Bid shall contain preprinted forms for use by the vendor in submitting his bid. The forms shall contain basic information such as description of the item and the estimated quantities, and shall have blank spaces for use by the vendor for entering information such as unit bid price, total bid price, etc.
3. INTERPRETATION OF ESTIMATES:
 - A. The attention of bidders is called to the fact that, unless stated otherwise, the quantities given in the proposal form are to be considered to be approximate only and given as a basis for the comparison of bids. The Agency may increase or decrease the amount of any item, as may be deemed necessary or expedient, during the period of the contract.
 - B. An increase or decrease in the quantity for any items is not sufficient ground for an increase or decrease in the unit price.
4. SILENCE OF SPECIFICATIONS: The apparent silence of the specifications as to any detail, or the apparent omission from it or detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and only material and workmanship of the first quality are to be used. Proof of specification compliance will be the responsibility of the vendor.
5. EXAMINATION OF SPECIFICATIONS AND PROVISIONS: The bidder shall examine carefully the proposal and the contract forms for the material contemplated. The bidder shall investigate and satisfy himself as to the conditions to be encountered, quality and quantities of the material to be furnished, and the requirements of the Special Provisions and the contract. The submission of a proposal shall be conclusive evidence that the bidder has made examination of the aforementioned conditions.
6. PREPARATION OF PROPOSAL:
 - A. The bidder's proposal shall be written in ink or typewritten on the form provided.
 - B. If items are listed with a zero quantity, bidder shall state unit price ONLY (intended for open end purchases where estimated requirements are not known). The proposal shall show a total bid price for each item bid and the total bid price of the proposal excluding zero quantity items.
7. PRICES QUOTED: The prices quoted are those for which the material will be furnished F.O.B. ordering Agency and include all charges that may be imposed during the period of the contract.

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8. DISCOUNT: No qualifying letter or statements in or attached to the proposal, or separate discounts will be considered in determining the low bid except as may be otherwise herein noted. Cash or separate discounts should be computed and incorporated into unit bid price(s).
9. SAMPLES OR BROCHURES: Samples and/or brochures may be required by the Agency for evaluation purposes. They shall be such as to permit the Agency to compare and determine if the item offered complies with the intent of the specifications.
10. PROPOSAL GUARANTY:
- A. Each bidder shall submit with his proposal a guaranty in sum equal to at least 10 percent of the total value of his bid, unless relieved of this obligation in the Special Provisions.
- B. This guaranty shall be submitted in the form of good or sufficient bond drawn upon an insurance or bonding company authorized to do business in the State of Delaware, to the State of Delaware for the benefit of the Agency, or a certified check drawn on a reputable banking institution and made payable to the Agency in the required amount. If Agency bond form is not utilized; the substituted bond forms must conform to the minimum of conditions specified in the Agency bond form.
11. DELIVERY OF PROPOSALS: Proposals shall be delivered in sealed envelopes, and shall bear on the outside the name and address of the bidder as well as the designation of the contract. Proposals may be hand delivered to the Division at the address (b) listed below. Proposals forwarded by U.S. Mail shall be sent first class to the address listed (a) below. Proposals forwarded by delivery service other than U.S. Mail must be delivered to address (b) listed below:
- A. U.S. Mail (**not recommended**): Department of Safety and Homeland Security
Secretary's Office - Central Fiscal Office
P.O. Box 818
Dover, Delaware 19903
- B. Other Delivery: Department of Safety and Homeland Security
Secretary's Office - Central Fiscal Office
Blue Hen Corporate Center
655 S. Bay Road, Suite 5N
Dover, Delaware 19901

All proposals will be accepted at the time and place set in the advertisement. Bidder bears the risk of delays in delivery. Proposals received after the time set for public opening will be returned unopened.

12. WITHDRAWAL OF PROPOSALS: A bidder may withdraw his proposal unopened after it has been deposited, if such a request is made prior to the time set for the opening of the proposal.
13. PUBLIC OPENING FOR PROPOSAL: Proposals will be opened publicly and read at the place

designated by the Agency on the date and hour set in the proposal. Bidders or their authorized representatives are invited to be present.

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14. DISQUALIFICATION OF BIDDERS: Any one or more of the following causes may be considered as sufficient for the disqualification of a bidder and the rejection of his proposal or proposals:
- A. More than one proposal for the same contract from an individual, firm or corporation under the same or different names. More than one proposal is acceptable if bidder represents more than one manufacturer or material.
 - B. Evidence of collusion among bidders.
 - C. Failure to return the NON-COLLUSION STATEMENT provided near the end of this package with the bid or proposal. The bid or proposal marked "Master" or "Original" must have handwritten signatures. Signature stamps or photocopies of this form are not acceptable for the master proposal. Photocopies of the form may be used in any additional copies of the bid or proposal.
 - D. Unsatisfactory performance record as evidenced by past experience.
 - E. If the unit prices are obviously unbalanced either in excess or below reasonable cost analysis value.
 - F. If there are any unauthorized additions, interlineation, conditional or alternate bids or irregularities of any kind which may tend to make the proposal incomplete, indefinite or ambiguous as to its meaning.

SECTION B – AWARD AND EXECUTION OF CONTRACT

1. CONSIDERATION OF BIDS:
- A. After the proposals have been opened and an award has been made the results will be made available to the public.
 - B. The right is reserved to waive technicalities, to reject any or all bids, or any portion thereof, to advertise for new proposals, to proceed to do the work otherwise, or to abandon the work, if in the judgement of the Agency or its agent, the best interest of the State will be promoted thereby.
2. MATERIAL GUARANTY: Before any contract is awarded, the successful bidder may be required to furnish a complete statement of the origin, composition, and manufacture of any or all of the materials to be used in the contract together with such samples as may be required for the purpose of testing.
3. AWARD OF CONTRACT: Within thirty days from the date of opening proposals, the contract will be awarded or the proposals rejected.

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1. EXECUTION OF CONTRACT:

- A. The bidder to whom the award is made shall execute a formal contract and furnish good and sufficient bond within twenty days after date of official notice of the award of contract.
- B. If the successful bidder fails to execute the required contract and bond, as aforesaid, within twenty days after the date of official notice of the award of the contract, his proposal guaranty shall immediately become forfeited as liquidated damages. Award will then be made to the next lower qualified bidder of the work or readvertised, as the Agency may decide.

2. REQUIREMENT OF CONTRACT BOND:

- A. Successful bidders shall furnish bond to the State of Delaware for the benefit of the Agency with surety in the amount of 100 percent of the total contract award or as otherwise provided in the Special Provisions. Said bonds shall be conditioned upon the faithful performance of the contract.
- B. The bond forms shall be provided by the Agency and the surety shall be acceptable to the Agency.

3. WARRANTY: The successful bidder(s) shall be required to extend any policy guarantee usually offered to the general public, FEDERAL, STATE, COUNTY, or MUNICIPAL governments, on material in this contract against defective material, workmanship, and performance.

4. THE CONTRACT(S): The contract(s) with the successful bidder(s) will be executed with the Department of Safety and Homeland Security, acting for all participating agencies.

5. RETURN OF BIDDER'S DEPOSIT: The deposits shall be returned to the successful bidder upon the execution of the formal contract. The deposits of unsuccessful bidders shall be returned to them immediately upon the awarding of the contract or rejection of their bids.

6. INFORMATION REQUIREMENT: The successful bidder(s) shall be required to advise the Department of Safety and Homeland Security, Delaware Emergency Management Agency of the gross amount of purchases made as a result of the contract.

SECTION C - GENERAL

1. AUTHORITY OF AGENCY: On all questions concerning the interpretation of specifications, the acceptability and quality of material, the execution of the work, and the determination of payment due or to become due, the decision of the Agency shall be final and binding.

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2. LAWS TO BE OBSERVED: The contractor is presumed to know and shall strictly comply with all National, State or County Laws, and City or Town Ordinances and Regulations in any manner affecting the conduct of the work. The contractor shall indemnify and save harmless the State of Delaware, the Agency, and all Officers, Agency and Servants thereof against any claim or liability arising from or based upon the violation of any such laws, ordinances, regulations, orders, or decrees whether by himself or by his employees.
3. PERMITS AND LICENSES: All necessary permits, licenses, insurance policies, etc. required by local, State or Federal laws, shall be provided by the contractor at his own expense.
4. PATENTED DEVICES, MATERIAL AND PROCESSES:
 - A. The contractor shall provide for the use of any patented design, device, material or process to be used or furnished under this contract by suitable legal agreement with the patentee or owner, and shall file a copy of this agreement with the Agency.
 - B. The contractor and the surety shall hold and save harmless the State of Delaware, the Agency, the Director, their Officers or Agents from any and all claims because of the use of such patented design, device, material, or process in connection with the work agreed to be performed under this contract.
5. EMERGENCY TERMINATION OF CONTRACT:
 - A. Due to restrictions that may be established by the United States Government on material, or work, a contract may be terminated by the cancellation of all or portions of the contract.
 - B. In the event the contractor is unable to obtain the material required to complete the items of work included in the contract because of restrictions established by the United States Government and if, in the opinion of the Agency, it is impractical to substitute other available material, or the work cannot be completed within reasonable time, the incomplete portions of work may be canceled, or the contract may be terminated.
6. TAX EXEMPTION:
 - A. Material covered by this proposal is exempt from all FEDERAL and STATE TAXES. Such taxes shall not be included in prices quoted.
 - B. Any material that is to be incorporated in the work or any equipment required for the work contemplated in the proposal may be consigned to the Agency. If the shipping papers show clearly that any such material is so consigned, the shipment will be exempt from the tax on the transportation of property under provisions of Section 3475 (b) of the Internal Revenue Code, as amended by Public Law 180 (78th Congress). The contractor shall pay all transportation charges. Each bidder shall take his exemption into account in calculating his bid for his work.

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7. OR EQUAL (PRODUCTS BY NAME): Specifications of products by name are intended to be descriptive of quality or workmanship, finish and performance. Desirable characteristics are not intended to be restrictive. Substitutions of products for those named will be considered provided the vendor certifies that the function, characteristics, performance, and endurance qualities of the material offered is equal or superior to that specified.
8. BASIS OF AWARD: The Department of Safety and Homeland Security, Delaware Emergency Management Agency will award this contract to the bidder(s) which in their judgement best serves the interest of the State of Delaware. Personnel with experience and technical background may be utilized by the Department of Safety and Homeland Security, Delaware Emergency Management Agency in making judgement. In case of error in price extension, the unit price(s) shall prevail.
9. INVOICING: After the awards are made, the agencies participating in the bid may forward their purchase orders to the successful bidder(s) in accordance with State Purchasing Procedures.

SECTION D – EQUAL OPPORTUNITY

1. EQUALITY OF EMPLOYMENT OPPORTUNITY ON PUBLIC WORKS: During the performance of any contract for public works financed in whole or in part by appropriation of the State of Delaware, the contractor agrees to follow:
 - A. The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated equally during employment, without regard to their race, creed, color, sex, age, or national origin. Such action shall include, but not be limited, to the following: employment, upgrading, demotion, transfer; recruitment or recruitment advertising; lay-off or termination rates of pay or other forms of compensation; and selection for training; including apprenticeships. The contractor agrees to post in conspicuous places, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.
 - B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment with regard to race, creed, color, sex, age, or national origin.
 - C. The term “contractor for public works” means construction, reconstruction, demolition, alteration and/or repair work, maintenance work, and paid for in whole or in part out of the funds of a public body except work performed under a vocational rehabilitation program. The manufacture or furnishing of materials, articles, supplies, or equipment is not a public work within the meaning of this subsection unless conducted in connection with and at the site of the public work.

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SPECIAL PROVISIONS

NOTE: The special provisions supercede the general provisions.

1. CONTRACT PERIOD:

The contract shall be valid for a period of three (3) years from the award date. An option to renew this contract for an additional two years at one-year increments may be exercised by mutual agreement of the parties.

2. PRICES:

Prices and/or rates will remain firm for the term of the contract.

The pricing policy that you choose to submit must address the following concerns:

- A. The structure must be clear, accountable and auditable.
- B. It must cover the full spectrum of services required.
- C. Costs and compensation must be consistent with the rates established or negotiated as a result of this ITB or P.O. issued based on this contract.

3. PRICE ADJUSTMENT:

If agreement is reached to extend this contract for the subsequent optional years, the Delaware Emergency Management Agency shall have the option of offering a determined price adjustment and shall not exceed the current Philadelphia All Urban Consumers Price Index (CPI-U), U.S. City Average. If the CPI-U is used, any increase/decrease shall reflect the change during the previous published twelve (12) month period at the time of renegotiation.

4. FUNDING OUT:

The continuation of this contract is contingent upon funding appropriated by the legislature.

5. BOND REQUIREMENT:

- A. BID BOND: NOT REQUIRED
- B. PERFORMANCE BOND: NOT REQUIRED

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6. MANDATORY INSURANCE REQUIREMENTS:

Certificate of Insurance and/or copies of insurance policies.

- A. As a part of the contract requirements, the contractor must obtain at its own cost and expense and keep in force and effect during the term of this contract, including all extensions, the insurance specified below with a carrier satisfactory to the State.
- i. Workmen's Compensation Insurance under the laws of the State of Delaware and Employer's Liability Insurance with limits of not less than \$100,000 each accident, covering all Contractor's employees engaged in any work hereunder.
 - ii. Comprehensive Liability - Up to one million dollars (\$1,000,000) single limit per occurrence including:
 - a) Bodily Injury Liability - All sums which the company shall become legally obligated to pay as damages because at any time resulting therefrom, sustained by any person other than its employees and caused by occurrence.
 - b) Property Damage Liability - All sums which the company shall become legally obligated to pay as damages because of injury to or destruction of property, caused by occurrence.
 - c) Contractual liability, premises and operations, independent contractors, and product liability.
 - iii. Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury or death, and \$100,000 as to property damage.
- B. Forty-five (45) days written notice of cancellation or material change of any policies is required.
- C. Before any work is done hereunder, the Certificate of Insurance and/or copies of the Insurance policies, referencing the contract number stated herein, shall be filed with the State. The certificate holder is as follows:

**Department of Safety and Homeland Security
Secretary's Office – Central Fiscal Office
Blue Hen Corporate Center
655 S. Bay Road, Suite 5N
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7. STATE OF DELAWARE BUSINESS LICENSE:

Prior to receiving an award, the successful contractor shall either furnish the Delaware Emergency Management Agency with proof of State of Delaware Business Licensure or initiate the process of application where required. An application may be requested in writing to: Division of Revenue, Carvel State Building, P.O. Box 8750, 820 N. French Street, Wilmington, DE 19899 or by telephone to one of the following numbers: (302) 577-8650 - Public Service, (302) 577-8250 - Licensing Department.

8. HOLD HARMLESS:

The successful contractor agrees that it shall indemnify and hold the State of Delaware and all its agencies harmless from and against any and all claims for injury, loss of life, or damage to or loss of use of property caused or alleged to be caused, by acts or omissions of the successful offeror, its employees, and invitees on or about the premises and which arise out of the successful offeror's performance, or failure to perform as specified in the Agreement.

9. NON-PERFORMANCE:

In the event the contractor does not fulfill its obligations under the terms and conditions of this contract, the ordering agency may purchase equivalent service on the open market. Any difference in cost between the contract prices herein and the price of open market service shall be the responsibility of the contractor. Under no circumstances shall monies be due the contractor in the event open market services can be obtained below contract cost. Any monies charged to the contractor may be deducted from an open invoice.

10. FORCE MAJEURE:

Neither the contractor nor the ordering agency shall be held liable for non-performance under the terms and conditions of this contract due, but not limited to, government restriction, strike, flood, fire, or unforeseen catastrophe beyond either party's control. Each party shall notify the other in writing of any situation that may prevent performance under the terms and conditions of this contract.

11. EXCEPTIONS:

Offerors may elect to take minor exception to the terms and conditions of this ITB. The Delaware Emergency Management Agency shall evaluate each exception according to the intent of the terms and conditions contained herein, but the Delaware Emergency Management Agency must reject exceptions that do not conform to State bid law and/or create inequality in the treatment of offerors. Exceptions shall be considered only if they are submitted with the proposal or before the date and time of the proposal opening.

12. BUSINESS REFERENCES:

In order to have your proposal considered, please supply three (3) business references consisting of current or previous customers of similar scope and value with your reply. Please include name, address, telephone number, fax number, e-mail address, and a verified contact person.

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13. BILLING:

The successful contractor is required to "Bill as Performed" to the respective ordering agency(s). Ordering agencies shall provide contract number, ship to and bill to address, contact name and phone number.

14. PAYMENT:

The agencies involved will authorize and process for payment each invoice within thirty (30) days after the date of receipt of a correct invoice.

15. PROPOSAL/CONTRACT EXECUTION:

Both the non-collusion statement that is enclosed with this INVITATION TO BID and the contract form delivered to the successful contractor for signature **MUST** be executed by a representative who has the legal capacity to enter the organization into a formal contract with the State of Delaware, Delaware Emergency Management Agency.

16. FORMAL CONTRACT AND/OR PURCHASE ORDER:

No employee of the Contractor(s) is to begin any work prior to receipt of a State of Delaware Purchase Order signed by authorized representatives of the agency requesting service, properly processed through the State of Delaware Accounting Office. The Purchase Order shall serve as the authorization to proceed with work in accordance with the bid specifications and the special instructions, once it is received by the Contractor(s).

17. SCHEDULE FOR PERFORMANCE OF WORK:

All work described in these specifications must be completed with reasonable promptness. As used in this Section, the State of Delaware shall be the sole judge of the term "reasonable". If the Contractor does not begin the work in a reasonable amount of time, they will be notified that if they fail to initiate the work promptly, the contract may be terminated and the State will forthwith proceed to collect for nonperformance of work.

18. TIME OF PERFORMANCE:

The services of the Contractor are to commence after receipt of a purchase order, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract, but in any event all of the services required hereunder shall be completed no later than the time periods set out in any schedule contained in the project Scope of Work. Any such schedule shall be maintained by the Contractor unless amended, in writing, by both parties.

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19. CONTRACTOR RESPONSIBILITY:

The State will enter into a contract with the successful contractor. The successful contractor shall be responsible for all products and services as required by this ITB. Subcontractors, if any, must be clearly identified in the financial proposal.

20. PERSONNEL:

- A. The Contractor represents that he has, or will secure at his own expense, all personnel required to perform the services required under this contract.
- B. All of the services required hereunder shall be performed by the Contractor or under his direct supervision, and all personnel, including subcontractors, engaged in the work shall be fully qualified and shall be authorized under State and local law to perform such services.
- C. None of the work or services covered by this contract shall be subcontracted without the prior written approval of the State.

21. TERMINATION OF P.O.'s:

- A. Termination for Cause If, for any reasons, or through any cause, the Contractor shall fail to fulfill in timely and proper manner his obligations, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the Agency shall thereupon have the right to terminate the P.O. by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the contractor in the performance of the P.O. shall, at the option of the Agency, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is usable to the Agency.
- B. Termination for Convenience The Agency may terminate the P.O. at any time by giving written notice of such termination and specifying the effective date thereof, at least fifteen (15) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, supplies, and other materials shall, at the option of the department, become its property and the Contractor shall be entitled to receive compensation for any satisfactory work completed on such documents and other materials which are usable to the Agency. If the P.O. is terminated by the Agency for convenience, the Contractor will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Contractor called for by the P.O., less payments or compensation previously made; provided, however, that if less than sixty (60) percent of the services covered by this contract have been performed upon the effective date of such termination, the Contractor shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under this P.O.) incurred by the Contractor during the contract period which are directly attributable to the uncompleted portion of the services covered by this P.O.
- C. If the P.O. is terminated due to the fault of the contractor, Paragraph 21A hereof relative to termination shall apply.

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22. ELIGIBLE WORK ACTIVITIES:

The following are activities that shall be reimbursable under this contract to the extent that they meet the requirements of this contract:

- A. Travel for purposes of depositions, settlement negotiations, and trial attendance, and, upon request, additional data collection, consultation with private, state, and federal personnel, collection, consultation with private, state, and federal personnel, inspection of facilities, and other purposes consistent with this contract. Eligible costs include reasonable charges for transportation by common carrier, mileage, tolls, lodging, meals, and other costs provided for by state law subject to the following conditions:
 - i. No travel outside the Continental United States shall be permitted without prior written approval of the department; and
 - ii. Receipts shall be provided for all travel-related costs for travel outside of Delaware as required by the State Division of Accounting.
- B. Procurement of reports or other printed materials and reproduction of materials; and
- C. Staff time involved in research, review, and in preparation of reports and comment letters, including the employment of temporary and/or part-time assistance, other than subcontracts for said purpose.

23. CONSULTATION AND REPORTING:

The Contractor shall submit financial and narrative progress reports at the completion of each task. The time and form of such reports will be prescribed by the State. The Contractor shall maintain the following records:

- A. File memos on meetings, site visits, and other activities;
- B. Time records and narrative documentation arranged on a monthly basis covering the work required under this contract in the form prescribed by the State; and
- C. Mileage and travel expense records, salary information and such other data as are necessary to document and substantiate the contractor charges. Such records shall be kept at the office of the Contractor and made available for review or audit on behalf of the State.

24. CHANGES:

Both parties may, from time to time, require changes in the services to be provided by the Contractor under the Scope of Work. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the Agency and the Contractor shall be incorporated in written amendments to the Purchase Order.

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25. INTEREST OF CONTRACTOR:

The Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree in providing products or performing services required under this contract. The Contractor further covenants that in the performance of this contract, no person having any such interest shall be employed.

26. PUBLICATION, REPRODUCTION AND USE OF MATERIAL:

No material produced in whole or part under this contract shall be subject to copyright in the United States or in any other country. The State shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other materials prepared under this contract; provided, however, that the State agrees not to use any design or engineering plans prepared by the Contractor for anything other than their intended purpose under this Contract. The Contractor shall have the right to publish any and all scientific findings. Appropriate acknowledgment and credit for the State's support shall be given in the publication.

27. RIGHTS AND OBLIGATIONS:

The rights and obligations of each party to this agreement shall not be effective, and no party shall be bound by the terms of this agreement, unless and until a valid executed purchase order has been approved by the Secretary of Finance and all procedures of the Department of Finance have been complied with. A separate purchase order shall be issued for every project.

28. ASSIGNMENT OF ANTITRUST CLAIMS:

As consideration for the award and execution of this contract by the State, the Contractor hereby grants, conveys, sells, assigns, and transfers to the State of Delaware all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, relating to the particular goods or services purchased or acquired by the State pursuant to this contract.

29. COVENANT AGAINST CONTINGENT FEES:

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach or violation of this warranty, the State shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

INVITATION TO BID
CONTRACT NO. 09-0130-10
Ludlum Digital Survey Meters, Model 2241-2

SPECIAL PROVISIONS

30. GRATUITIES:

- A. If it is found, after notice and hearing, by the State that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor or any agent of the State with a view toward securing a contract, or securing favorable treatment with respect to the awarding, amending, or the making of any determinations with respect to the performance of this contract, the State may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract and/or may pursue such other rights and remedies provided by law or under this agreement; provided that the existence of the facts upon which the State makes such findings shall be in issue and may be reviewed in proceedings pursuant to the Remedies clause of this contract; and
- B. In the event this contract is terminated, the State shall be entitled (i) to pursue the same remedies against the Contractor, and (ii) to exemplary damages, as a penalty in addition to any other damages to which it may be entitled by law, in an amount which shall be not less than three, nor more than ten, times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee. The amount of such exemplary damages shall be in the sole discretion of the State.

31. AFFIRMATION:

The Contractor must affirm that within the past five (5) years the firm or any officer, controlling stockholder, partner, principal, or other person substantially involved in the contracting activities of the business is not currently suspended or debarred and is not a successor, subsidiary, or affiliate of a suspended or debarred business.

32. AUDIT ACCESS TO RECORDS:

The Contractor shall maintain books, records, documents, and other evidence pertaining to this Contract to the extent and in such detail as shall adequately reflect performance hereunder. The Contractor agrees to preserve and make available to the State, upon request, such records for a period of five (5) years from the date services were rendered by the Contractor. Records involving matters in litigation shall be retained for one (1) year following the termination of such litigation. The Contractor agrees to make such records available for inspection, audit, or reproduction to any official State representative in the performance of his/her duties under the Contract. Upon notice given to the Contractor, representatives of the State or other duly authorized State or Federal agency shall inspect, monitor, and/or evaluate the cost and billing records or other material relative to this Contract. The cost of any Contract audit disallowances resulting from the examination of the Contractor's financial records will be borne by the Contractor. Reimbursement to the State for disallowances shall be drawn from the contractor's own resources and not charged to Contract cost or cost pools indirectly charging Contract costs.

INVITATION TO BID
CONTRACT NO. 09-0130-10
Ludlum Digital Survey Meters, Model 2241-2

SPECIAL PROVISIONS

33. TERMINATION OF CONTRACT:

- A. Termination for Cause - If, for any reasons, or through any cause, the Contractor shall fail to fulfill in timely and proper manner his obligations under this Contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Contract, the State shall thereupon have the right to terminate this contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least 5 days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Contractor under this Contract shall, at the option of the State, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is usable to the State.
- B. Termination for Convenience - The State may terminate this Contract at any time by giving written notice of such termination and specifying the effective date thereof, at least 15 days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, supplies, and other materials shall, at the option of the State, become its property and the Contractor shall be entitled to receive compensation for any satisfactory work completed on such documents and other materials, and which is usable to the State. If the Contract is terminated by the State as provided herein, the Contractor will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Contractor covered by this Contract, less payments of compensation previously made. Provided however that if less than 60 percent of the services covered by this Contract have been performed upon the effective date of termination, the Contractor shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under this Contract) incurred by the Contractor during the Contract period which are directly attributable to the uncompleted portion of the services covered by this Contract.

34. REMEDIES:

Except as otherwise provided in this contract, all claims, counterclaims, disputes, and other matters in question between the State and the Contractor arising out of, or relating to, this contract, or a breach of it will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Delaware.

35. AMENDMENTS:

This contract may be amended, in writing, by mutual agreement of the parties.

INVITATION TO BID
CONTRACT NO. 09-0130-10
Ludlum Digital Survey Meters, Model 2241-2

SPECIAL PROVISIONS

36. SUBCONTRACTS:

Subcontracting is permitted under this ITB and contract. However, every subcontractor must be identified in the Proposal and agreed to in writing by the State or as are specifically authorized in writing by the Agency during the performance of the contract. Any substitutions in or additions to such subcontractors, associates, or consultants will be subject to the prior written approval of the State.

The contractor(s) shall be responsible for compliance by the subcontractor with all terms, conditions and requirements of the ITB and with all local, State and Federal Laws. The contractor shall be liable for any noncompliance by any subcontractor. Further, nothing contained herein or in any subcontractor agreement shall be construed as creating any contractual relationship between the subcontractor and the State.

37. AGENCY'S RESPONSIBILITIES:

The Agency shall:

- A. Examine and review in detail all letters, reports, drawings and other documents presented by the Contractor to the Agency and render to the Contractor in writing, findings and decisions pertaining thereto within a reasonable time so as not to delay the services of Contractor.
- B. Give prompt written notice to the Contractor whenever the Agency observes or otherwise becomes aware of any development that affects the scope or timing of the Contractor's services.

38. CONFIDENTIALITY:

Specific attention should be given to the identification of those portions of your proposal that you deem to be confidential or proprietary information that should not be disclosed under the Delaware Public Information Act. Bidders are advised that upon request for this information from a third party, the Procurement Officer is required to make an independent determination as to whether information may be or must be divulged to the party.

39. CONTRACT DOCUMENTS:

The Definitions and General Provisions and any Special Instructions, Specifications, INVITATION TO BID, Proposal, Purchase Order, and Contract shall be a part of and constitute the entire Agreement entered into by the State of Delaware and any bidder. In the event there is any discrepancy between any of these contract documents, the following order of documents governs so that the former prevails over the latter:

- | | |
|-------------------------------------|-------------------------|
| A. Contract | E. Proposal |
| B. INVITATION TO BID | F. Purchase Order |
| C. Specifications or Scope of Work | G. Special Instructions |
| D. Definitions & General Provisions | |

40. ASSIGNMENT:

This contract cannot be assigned except by express written consent from the Cabinet Secretary, Department of Safety and Homeland Security, of the State of Delaware.

INVITATION TO BID
CONTRACT NO. 09-0130-10
Ludlum Digital Survey Meters, Model 2241-2

SPECIAL PROVISIONS

I. INTRODUCTION:

A. PURPOSE:

The Delaware Emergency Management Agency is soliciting proposals for Ludlum Digital Survey Meters, which will be Model 2241-2.

It is the goal of this INVITATION TO BID to identify a vendor(s) and execute a contract to purchase Ludlum Digital Survey Meters, Model 2241-2.

B. GUIDELINES:

Offerors proposal must respond to each and every requirement outlined in the ITB in order to be considered responsive. Proposals must be clear and concise.

Offerors submitting proposals may be afforded an opportunity for discussion and revision of proposals. Revisions may be permitted after submissions of proposals and prior to award for the purpose of obtaining best and final offers.

Negotiations may be conducted with responsible offerors who submit proposals found to be reasonably likely to be selected for award. The contents of any proposal shall not be disclosed so as to be available to competing offerors during the negotiation process.

II. FORMAT FOR PROPOSAL:

A. INTRODUCTION:

This section prescribes the mandatory format for the presentation of a proposal in response to this ITB. Each offeror must provide every component listed in the order shown in this ITB, using the format prescribed for each component. A proposal may be rejected if it is incomplete or conditional.

B. COVER LETTER:

Each proposal will have a cover letter on the letterhead of the company or organization submitting the proposal. The cover letter shall briefly summarize the offeror's ability to provide the products specified in the ITB and any other value-added service(s) not specifically requested.

The cover letter must be signed by a representative who has the legal capacity to enter the organization into a formal contract with the State of Delaware, Delaware Emergency Management Agency.

INVITATION TO BID
CONTRACT NO. 09-0130-10
Ludlum Digital Survey Meters, Model 2241-2

INVITATION TO BID

C. DESCRIPTION OF SERVICES AND QUALIFICATIONS:

Each proposal must contain a detailed description of how the offeror will provide each of the products outlined in this ITB to include maintenance, warranty and calibration requirements. This part of the proposal may also include descriptions of any enhancements or additional services or qualifications the offeror will provide that are not mentioned in this ITB.

D. NUMBER OF COPIES WITH MAILING OF PROPOSAL:

Three (3) copies of the Proposal will be submitted in a sealed envelope clearly marked with the name of the offeror and labeled Ludlum Digital Survey Meters, Model 2241-2. One of the copies shall be marked "Master Copy" and will contain original signatures in all locations requiring an offeror signature. The remaining two (2) copies do not require original signatures.

E. ADDENDA TO THE ITB:

If it becomes necessary to revise any part of this ITB, revisions in writing will be provided to all contractors known to have received a copy of the ITB. Potential offerors shall acknowledge in writing receipt of all amendments, addenda and changes issued in connection with this ITB by submitting an affirmative statement in the Proposal.

F. INCURRED EXPENSES:

The State will not be responsible for any expenses incurred by the bidder in preparing and submitting a proposal.

G. ECONOMY OF PREPARATION:

Proposals should be prepared simply and economically, providing a straightforward, concise description of the contractors offers to meet the requirements of the ITB. DO NOT USE RING BINDERS.

H. RIGHT TO REJECT PROPOSALS/WAIVE OR CORRECT MINOR IRREGULARITIES:

The State reserves the right to withdraw this contract, to reject any proposals, to waive minor irregularities in proposals or to allow the bidder to correct a minor irregularity if the best interest of the State will be served by doing so.

INVITATION TO BID
CONTRACT NO. 09-0130-10
Ludlum Digital Survey Meters, Model 2241-2

INVITATION TO BID

III. SCOPE OF WORK:

A. OVERVIEW:

The Delaware Emergency Management Agency is soliciting proposals for Ludlum Digital Survey Meters, Model 2241-2. The initial purchase is for 34 units. The Contractor(s) shall provide all materials and labor to satisfy the Delaware Emergency Management Agency's need for Ludlum Digital Survey Meters, Model 2241-2 as described herein. Each proposal must contain a detailed description of how the offeror will provide each of the products outlined in this ITB to include maintenance, warranty, and calibration requirements. This part of the proposal may also include descriptions of any enhancements or additional services or qualifications the offeror will provide that are not mentioned in this ITB.

The services will require the Contractor(s) to partner with and cooperate with the ordering agency to make sure the State receives the most current state-of-the-art services/products.

B. DETAILED REQUIREMENTS:

The requirements of this ITB are shown in Appendix A, attached, and made a part of the contract.

IV. PROPOSAL EVALUATION PROCEDURES:

A. BASIS OF AWARD:

The Delaware Emergency Management Agency shall award this contract to the most responsible and responsive offeror who best meets the terms and conditions of the proposal. The award will be made on basis of price, product evaluation, and prior history of service and capability.

The Delaware Emergency Management Agency reserves the right to reject any or all proposals in whole or in part, to make multiple awards, partial awards, award by types, item by item, or lump sum total, whichever may be most advantageous to the State of Delaware. The intent though is to award this contract to one (1) offeror.

Offerors submitting proposals may be afforded an opportunity for discussion and revision of proposals. Revisions may be permitted after submissions of proposals and prior to award for the purpose of obtaining best and final offers. Negotiations may be conducted with responsible offerors who submit proposals found to be reasonably likely to be selected for award. The contents of any proposal shall not be disclosed so as to be available to competing offerors during the negotiation process.

B. REVIEW COMMITTEE:

A group with expertise in procurement, contract management, budgeting, operations and technical expertise will comprise the Review Committee.

INVITATION TO BID
CONTRACT NO. 09-0130-10
Ludlum Digital Survey Meters, Model 2241-2

INVITATION TO BID

C. REQUIREMENTS OF THE OFFEROR:

The purpose of this section is to assist the Review Committee to determine the ability of the organization to provide the products described in the application. The response should contain at a minimum the following information:

- * Brief history of the organizations, including accreditation status, if applicable.
- * Applicant's experience, if any, providing similar services/products. At least three references are required (See § 12 – Special Provisions).

D. CRITERIA AND SCORING:

The award will be based on the lowest price bid.

APPENDIX A
SPECIFICATIONS

INVITATION TO BID
CONTRACT NO. 09-0130-10
Ludlum Digital Survey Meters, Model 2241-2

The Delaware Emergency Management Agency is soliciting proposals for thirty-four (34) Ludlum Digital Survey Meters, Model 2241-2.

The Vendor(s) shall provide all materials and labor to satisfy the Delaware Emergency Management Agency's need for Ludlum Digital Survey Meters, Model 2241-2 as described herein. Each proposal must contain a detailed description of how the offeror will provide the product outlined in this ITB to include delivery time frame, warranty and customer service history. This part of the proposal may also include descriptions of any enhancements or additional services or qualifications the offeror will provide that are not mentioned in this ITB:

The minimum specifications for all equipment listed must be standard OEM equipment normally offered to the general public and the following:

Ludlum Digital Survey Meters, Model 2241-2

- 44-9 pancake probe to display CPM with detector selection switch in either position.
- Probe clip on handle
- 1µc check source mounted on side of instrument
- 2 each D cell batteries, cables and shipping included in the price quote
- No case – just individual instruments

APPENDIX A
SPECIFICATIONS

INVITATION TO BID
CONTRACT NO. 09-0130-10
Ludlum Digital Survey Meters, Model 2241-2

PROPOSAL REPLY SECTION

Please fill out the attached forms fully and completely and return to the address below by 2:00 PM on Monday, December 15, 2008 at which time proposals will be opened.

**Department of Safety and Homeland Security
Secretary's Office - Central Fiscal Office
Blue Hen Corporate Center
655 S. Bay Road, Suite 5N
Dover, Delaware 19901**

PUBLIC PROPOSAL OPENINGS

The public proposal opening insures the citizens of Delaware that contracts are being proposed fairly on a competitive basis and comply with Delaware procurement laws. The agency conducting the opening is required by law to publicly open the proposals at the time and place specified and the contract shall be awarded within ninety (90) days thereafter. The main purpose of the proposal opening is to reveal the name(s) of the offeror(s), not to serve as a forum for determining the apparent low offers. The disclosure of additional information, including prices, shall be at the discretion of the contracting agency until such time that the responsiveness of each proposal has been determined.

After receipt of a fully executed contract(s), the Delaware public and all offerors are invited to make an appointment with the contracting officer in order to review pricing and other non-confidential information.

NOTE: ONLY THE OFFEROR'S NAME AND ADDRESS WILL BE READ AT THE OPENING

STATE OF DELAWARE
DEPARTMENT OF SAFETY AND HOMELAND SECURITY
Delaware Emergency Management Agency
Blue Hen Corporate Center
655 S. Bay Road, Suite 5N
DOVER, DELAWARE 19901

NO PROPOSAL REPLY FORM

CONTRACT #: 09-0130-10
CONTRACT TITLE: Ludlum Digital Survey Meters, Model 2241-2

To assist us in obtaining good competition on our INVITATION TO BIDs, we ask that each firm that has received a proposal, but does not wish to bid, state their reason(s) below and return in the enclosed envelope. This information will not preclude receipt of future invitations unless you request removal from the Offeror's List by so indicating below, or do not return this form or bona fide proposal.

Unfortunately, we must offer a "No Proposal" at this time because:

- _____ 1. We do not wish to participate in the proposal process.
- _____ 2. We do not wish to bid under the terms and conditions of the INVITATION TO BID document.
Our objections are:

- _____ 3. We do not feel we can be competitive.
- _____ 4. We cannot submit a Proposal because of the marketing or franchising policies of the
manufacturing company.
- _____ 5. We do not wish to sell to the State. Our objections are:

- _____ 6. We do not sell the items/services on which Proposals are requested.
- _____ 7. Other: _____

_____ FIRM NAME _____ SIGNATURE _____

_____ We wish to remain on the Offeror's List for these goods or services.

_____ We wish to be deleted from the Offeror's List for these goods or services.

CONTRACT NO: 09-0130-10

TITLE: Ludlum Digital Survey Meters, Model 2241-2

OPENING DATE: 2:00PM EST Monday, December 15, 2008

NON-COLLUSION STATEMENT

This is to certify that the undersigned offeror has neither directly nor indirectly, entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this proposal submitted this date to the Delaware Emergency Management Agency.

It is agreed by the undersigned offeror that the signed delivery of this bid represents the offeror's acceptance of the terms and conditions of this invitation to bid including all specifications and special provisions.

NOTE: Signature of the authorized representative MUST be of an individual who legally may enter his/her organization into a formal contract with the State of Delaware, Department of Public Safety.

COMPANY NAME _____ (Check One)

<input type="checkbox"/>	Corporation
<input type="checkbox"/>	Partnership
<input type="checkbox"/>	Individual

(Please type or print)

NAME OF AUTHORIZED REPRESENTATIVE _____

SIGNATURE _____ TITLE _____

ADDRESS OF COMPANY _____

PHONE NUMBER _____ FAX NUMBER _____

FEDERAL E.I. NUMBER _____ STATE OF DELAWARE
LICENSE NUMBER _____

COMPANY CLASSIFICATIONS: (Please circle)	<u>Women</u>	Yes	No	<u>Minority</u>	Yes	No	<u>Disadvantaged</u>	Yes	No
	<u>Business</u>			<u>Business</u>			<u>Business</u>		
	<u>Enterprise</u>			<u>Enterprise</u>			<u>Enterprise</u>		
	<u>(WBE)</u>			<u>(MBE)</u>			<u>(DBE)</u>		

THIS PAGE MUST BE SIGNED, NOTARIZED, AND RETURNED FOR YOUR BID TO BE CONSIDERED

Sworn to and Subscribed before me this _____ day of _____, 20__.

My Commission Expires _____

State of _____

City of _____

County of _____

NOTARY PUBLIC

STATE OF DELAWARE
DEPARTMENT OF SAFETY AND HOMELAND SECURITY
Delaware Emergency Management Agency
Secretary's Office – Central Fiscal Office
Blue Hen Corporate Center
655 S. Bay Road, Suite 5N
DOVER, DELAWARE 19901

PROPOSAL REPLY FORM

QUANTITY	DESCRIPTION	UNIT BID PRICE	TOTAL BID PRICE
34	Ludlum Digital Survey Meters	\$ _____	\$ _____
	Warranty	Standard	\$ _____
	Warranty	Extended	\$ _____

A. Warranty – Describe manufacturers warranty:

Standard:

Extended:

B. Service/Repair – Provide information regarding the servicing or repairing of the survey meters (hourly rate and service location (s)).

STATE OF DELAWARE
DEPARTMENT OF SAFETY AND HOMELAND SECURITY
Delaware Emergency Management Agency
Secretary's Office – Central Fiscal Office
Blue Hen Corporate Center
655 S. Bay Road, Suite 5N
DOVER, DELAWARE 19901

PROPOSAL REPLY FORM CONTINUED

C. Please enclose any additional information, pamphlets, etc. that will help in evaluating the survey meters.

Total Net Bid Price Delivered F.O.B.

**Delaware Emergency Management Agency
165 Brick Store Landing Road
Smyrna, Delaware 19977**

\$_____

Delivery Days ARO _____

Vendor Name: _____

Address: _____

Phone Number: _____

Contact Name: _____



State of Delaware

Office of Minority and Women Business Enterprise
Certification Application



Complete application and mail to:

Office of Minority and Women Business Enterprise (OMWBE)
Haslet Armory
122 William Penn Street
Dover, DE 19901
Telephone: (302)739-4206 Fax: (302)739-1965
Email: deomwbe@state.de.us
Web site: www.omwbe.delaware.gov

Important Information Please Read!

Is my firm eligible?

A minority and/or women owned business (sole-proprietorship, partnership, corporation or joint venture) must meet the following criteria:

- a) Minority groups include: African Americans, Asian/Pacific Americans, Hispanic Americans, Native Americans, and Subcontinent Asian Americans.
- b) At least 51 percent owned, controlled and actively managed by minority group members or by women.
- c) Serving a for profit business with “useful business functions.”
- An out-of-state company must first **be certified in its home state** before it can be considered for certification in Delaware. This must be a state-level certification, if available.
- There is no fee for processing your application. In addition, free assistance is available. If you have questions about the application or your company’s qualifications, call (302)739-4206.
- If your business is certified by **Delaware Department of Transportation (DelDOT) City of Wilmington, Minority Supplier Development Council (MSDC), Women Business Enterprise National Council (WBENC) and located in Delaware**, there is a specialized application. You must also attach a copy of your certification and mail all documents to the OMWBE.
- Also, please note that it is extremely important to provide other certifying agency documentation. This can expedite the certification process.

Document Request checklist

- Unless otherwise indicated, copies of documents are sufficient.
- Any deficiency may delay the certification process.
- Certification generally takes four to six weeks.
- **An on-site visit.** *(The OMWBE office may schedule an on-site visit once the completed application and appropriate supporting documentation have been received).*

Documents to attach to your application	Sole Prop	Part/LLP	Corp/S-Corp	LLC	OMWBE Use
Notarized Minority and Women Business Enterprise Affidavit form	Yes	Yes	Yes	Yes	
Copy of birth certificate, permanent resident card, passport or tribal memberships	Yes	Yes	Yes	Yes	
Copy of MBE/WBE certification from home state, if company headquarters are not in Delaware. (must be a state level certification, if available)	Yes	Yes	Yes	Yes	
Copies of any relevant licenses, certificates of training and degrees held by the company or its owners/employees	Yes	Yes	Yes	Yes	
Partnership Agreement, including any amendments, buy-out rights as well as any profit sharing arrangements		Yes			
Articles of Incorporation with all amendments			Yes		
Minutes of the last annual shareholders meeting			Yes		
By-laws and By-law Amendments			Yes		
Copy of most recent Stock Ledger			Yes		
Copy of Certificate of Organization				Yes	
Copy of Operating Agreement				Yes	
Optional Information – Please read below for advantages of tax document submission*					
Last two years of your firm's tax returns (gross receipts). If not available, last two years W2 and/or 1099 forms for all owners, directors, officers and senior management.	Yes	Yes	Yes	Yes	

* Submitting tax information provides OMWBE with documentation required to identify the business as a small business. If you would like to be identified as a small minority and women business enterprise please submit tax information. For additional information on small business criteria please visit <http://www.ccr.gov/SizeStandard.aspx> or <http://www.sba.gov/index.html> (most requested items). Please note the categorization of small business may provide additional opportunities.

Delaware Minority and/or Women Business Enterprise Certification

Certification Application

The following is the application for Minority and/or Women Business Enterprise (MWBE) certification with the State of Delaware. All questions must be answered. Please type or print clearly.

Questions that do not apply to your firm should be marked N/A in the space provided.

The Affidavit on page 14 must be signed and notarized by a Notary Public. Faxed copies of the Affidavit will only be accepted if the notary seal has the stamped seal with the expiration date visible. Otherwise, mail the original Affidavit with the raised seal to our office.

Please return the completed application with signature and required notarization to the address below:

**Office of Minority and Women
Business Enterprise
Haslet Armory
122 William Penn Street
Dover, DE 19901**

Phone: (302) 739-4206

Fax: (302) 739-1965

Web site: www.omwbe.delaware.gov

Definitions

Minority and/or Women Business Enterprise

A Minority and Women Business Enterprise is a business that is at least 51 percent owned, controlled and actively managed by minority and/or women group members who are United States citizens or persons lawfully admitted to the United States for permanent residence.

The business must be a for-profit business and currently be performing a useful function.

Minorities – United States citizens or permanent residents who are African Americans, Asian/Pacific Americans, Hispanic Americans, Native Americans, Subcontinent Asian Americans, or as defined herein:

African (Black) Americans. All persons having origins from any of the Black groups of Africa and all persons having origins in any of the original peoples of the Cape Verde Islands.

Asian/Pacific Americans. All persons having origins from any of the original peoples of the Far East, Asia, or the Pacific Islands, including China, Japan, Korea, Samoa, Philippine Islands, and Hawaii. Guam, the U.S. Trust Territories of the Pacific or the Northern Marianas.

Hispanic Americans. Persons having origins from any of the Spanish-speaking peoples of México, Puerto Rico, Cuba, Central or South America, or the Caribbean Islands.

Native Americans. All persons having origins from the original peoples of North America and who are recognized as Native Americans by a tribe or tribal organization.

Subcontinent Asian Americans. All persons whose ancestors originated in India, Pakistan or Bangladesh.

Certification - A determination by the OMWBE that a for-profit business entity is a Minority Business Enterprise (MBE) and/or Women Business Enterprise (WBE).

Definitions

Ownership

The minority or woman ownership interest in the firm must be real, substantial and continuing and shall go beyond the pro forma ownership of the business as reflected in its ownership documents. The minority and women owners shall enjoy the customary incidents of ownership and shall share in the risks and profits commensurate with their ownership interest as demonstrated both by an examination of the substance and form of arrangements.

Control

Control will be exemplified by possession of the requisite knowledge and expertise to run the particular business. Control includes the authority to determine the direction of a business, including but not limited to capital investments and all other financial transactions; property acquisitions; day-to-day decisions; contract negotiations; legal matters; selection and hiring of officers, directors, and employees; operating responsibility; cost-control; income and dividend matters; and the rights of other shareholders or partners.

The minority and/or women owners must hold the highest officer position in their companies, example chief executive officer or president.

The minority and/or women must demonstrate that they possess the experience, expertise and knowledge to operate their particular types of business.

Expertise limited to office management, administration, or bookkeeping functions unrelated to the principal business activities of the company is insufficient to demonstrate control. Women and/or minority owners must also verify that they hold any licenses or certification required by the type of business in which they are engaged.

Definitions

Minority Business Enterprise (MBE) - A for profit business in which at least 51% of the beneficial ownership interest and control are held by a minority or minorities. In the case of a corporation, minorities must hold at least 51% of voting interest.

Minority & Women Business Enterprise (MWBE) - A for-profit business in which at least 51% of beneficial interest and control is held by minority women or by an equal combination of minorities and women. In the case of a corporation, women and minorities must also hold at least 51% of voting interest.

Women Business Enterprise (WBE) - A for-profit business in which at least 51% of beneficial interest and control is held by women. In the case of a corporation, women must also hold at least 51% of the voting interest.

Useful Business Function

A useful business function is one, which results in the provision of materials, supplies, equipment or services to consumers in the State. A business acting as a conduit to transfer funds to a non-minority business does not constitute a useful business function unless doing so is a normal industry practice.

Benefits of Certification

Current certified minority and/or women owned firms are eligible to be listed in the State of Delaware Directory of Minority and Women Owned Businesses which is circulated to all state and local government agencies.

Recertification

At the ends of three years from original certification date, firms must submit the recertification affidavit to remain actively visible in the State of Delaware's Minority and/or Women Business Enterprise database.

Eligibility

A minority and women owned business (sole-proprietorship, partnership, corporation or joint venture) must meet the following criteria:

- a) Belong to a minority group: African Americans, Asian/Pacific Americans, Hispanic Americans, Native Americans, and Subcontinent Asian Americans.
(Please reference above definitions)
- b) At least 51 percent owned, controlled and actively managed by minority group members or by women.
- c) Serving a for profit business with “useful business functions.”
(Please reference above definitions)
- d) Firm is not a for-profit business
- e) Firm has provided false or misleading information
- f) Control will not be deemed to exist in cases of simple majority or absentee ownership, or when a non-minority/non-female owner or employee of the firm is disproportionately responsible for its operation.
- g) The firm shall not be subject to any formal or informal restrictions through, for example through, by-laws provisions, partnership agreements, or charter requirements for cumulative voting rights or otherwise that prevents the minority and women owners, without the cooperation or vote of any owner who is not a minority or women for making a business decision of the firm.

Reasons for denial *(please note the below may include but not be limited to)*

- a) A business located in a state other than Delaware must first obtain state-level certification in its home state, if such certification is available. “Home state” is defined as the state the company’s headquarters are located.
- b) All securities, which constitute ownership and/or control of a corporation for the purpose of establishing it as a MWBE, must be held directly by minorities or women. No securities held in trust, or by a guardian for a minor, shall be considered as held by a minority or women in determining the ownership or control of a corporation.
- c) If the business operations do not reflect the ownership shown on paper.
- h) If the owners of the firm who are not minorities or women are disproportionately responsible for the operation of the firm, then the firm is not controlled by minorities and shall not be considered as MWBE within the meaning of the definition. Where the actual management of the firm is contracted out to individuals other than the owner, those person who have the ultimate power to hire and fire the managers, can, for the purpose of this
- i) The certification application was submitted incomplete.

How to Apply

- Applications and additional information are available by calling the Office of Minority and Women Business Enterprise at (302) 739-4206 or visiting the web site www.state.de.us/omwbe
- Complete an application for certification and provide required documentation (ethnic status of minority owner(s), financial records, on-going business activity, etc.)
- Provide access to its business facilities and key personnel for state certification on-site visit.

WHERE TO APPLY:

Submit completed applications to:
Office of Minority and Women Business
Enterprise
Haslet Armory
122 William Penn Street
Dover, DE 19901

Frequently Asked Questions

Q: Does certification cost money?

A: No

Q: Are there any set asides for MWBEs?

A: No

Q: Does my certification expire?

A: At the end of three years from original certification date.

Q: Will I be notified of all procurement opportunities?

A: No, however, the OMWBE will continue to research bid opportunities and assist in your effort. We are consistently working on ways to improve communication but strongly encourage you to visit the respective resources.

Q: What is the best way to communicate with the OMWBE?

A: Email. Please check your email daily for procurement opportunities.

Q: Do I have to register with any other agency?

A: Yes. There are multiple agencies that have their own bidders list. Please check OMWBE's web site for each respective agency. For example, Government Support Services and the Department of Technology and Information have vendor registration processes.

State of Delaware Minority and/or Women Business Enterprise Application
All completed applications must be returned with the appropriate requested documents listed.

Please type or print clearly

OMWBE use only: Application Date:

Mail application to:
Office of Women and Minority Business Enterprise
Haslet Armory
122 William Penn Street
Dover, DE 19901

If you have any questions regarding the completion of this application, please contact us at (302) 739-4206.

Note – This section must be filled out in its entirety for the application to be processed.

Incomplete applications will not be processed.

1. Business Name(s), Contact Information, Federal Employee Identification Number or Social Security Number(EIN/SSN)				
Legal Name of Firm:				
Doing Business As (If applicable):				
Federal E.IN or SSN:		E-Mail Address:		
Address line 1:				
Address line 2:				
City		State	Zip Code	Country
Telephone Number:		Extension:	Fax Number:	
Company Web Site Address:				
Corp <input type="checkbox"/>	LLC* <input type="checkbox"/>	S Corp <input type="checkbox"/>	Partnership <input type="checkbox"/>	LLP** <input type="checkbox"/>
Sole Proprietor <input type="checkbox"/>		Joint Venture <input type="checkbox"/>		
Date firm was established?				
Date firm began doing business (date of first contract or sale)				

* Limited Liability Corporation

** Limited Liability Partnership

2. Primary owner applicant information				
Name:		Title:		
Home Address:		City:	State:	Zip Code: Country:
Telephone Number:		Extension:	Fax Number:	
E-Mail Address:				
Date owner acquired controlling interest?				
Sex: <input type="checkbox"/> M <input type="checkbox"/> F		Ethnic Group:		
U.S. Citizen or Permanent Resident: <input type="checkbox"/> No <input type="checkbox"/> Yes				

3. Firm is applying as:					
Minority Business Enterprise			Women Business Enterprise		
<input type="checkbox"/> African American	<input type="checkbox"/> Asian American		<input type="checkbox"/> African American	<input type="checkbox"/> Asian American	
<input type="checkbox"/> Hispanic American	<input type="checkbox"/> Native American		<input type="checkbox"/> Hispanic American	<input type="checkbox"/> Native American	
<input type="checkbox"/> Subcontinent Asian	<input type="checkbox"/> Other		<input type="checkbox"/> Subcontinent Asian	<input type="checkbox"/> White American	
			<input type="checkbox"/> Other		

4. Describe, in detail, what product(s) and/or services your business provides. Attach additional pages and/or the company's catalog or inventory list, if needed. Please note the below capabilities narrative will be posted on the OMWBE web site.

5. Six digit North American Industry Classification System (NAICS) Code(s): (To assist you in determining your NAICS Code(s) go to www.census.gov/naics)					
1.	2.	3.	4.	5.	6.

6. Type of Business		
<input type="checkbox"/> Building trade	<input type="checkbox"/> Manufacturer	<input type="checkbox"/> Other
<input type="checkbox"/> Consultant	<input type="checkbox"/> Supplier	
<input type="checkbox"/> Generalized service	<input type="checkbox"/> Highway Construction	
<input type="checkbox"/> Licensed professional services		

7. Provide the following information for: 1) all business owners, 2) corporate directors (if incorporated), 3) officers, and 4) senior management. If more space is needed, attach additional pages.				
Name	Title	Date Appointed	Gender	Ethnicity
Officers of the Company				
Board of Directors				

8. Is any owner or board member of the business, an owner or former owner of another firm engaged in the same or similar type of enterprise?

☐ No ☐ Yes (If yes, identity below)

9. Are there any written, oral, or implied agreements between persons associated in any manner with the firm concerning its ownership and/or operation? (check one) ☐ No ☐ Yes

10. Please list the gross receipts of last two years

(A) Year Ending:	Gross Receipts:
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(B) Year Ending:	Gross Receipts:
------------------	-----------------

11. Number of employees

Full time:

Part time:

Seasonal (approximate):

12. List names and titles of persons who perform the following functions. If more than one, indicate what percent each person handles.

	Name	Ethnicity	Gender
Financial Decisions			
Estimating & Bidding			
Negotiating & Contract Execution			
Personnel Management			
Field/Production Operations Supervisor			
Office Management			
Marketing/Sales			
Purchasing of Major Equipment			
Authorized to Sign Company Checks (for any purpose)			

13. Identify persons or firms who provide Legal, Accounting, and Banking services:			
Attorney:		Contact:	
Phone:	Fax:	Email:	
Address:			
Accountant:		Contact:	
Phone:	Fax:	Email:	
Address:			
Bank:		Contact:	
Phone:	Fax:	Email:	
Address:			

14. If the business is a corporation or LLC, please list the following information:
a. Total shares authorized:
b. Total shares issued to date:
c. Are there any restrictions that limit the voting rights of ethnic minority group members, who are shareholders, within the By-laws or Articles of Incorporation, or any other documents? <input type="checkbox"/> No <input type="checkbox"/> Yes <i>(If yes, please explain below)</i>

15. List the three largest contracts or sales completed by the firm during the last three years. List each customer's name and company or organization, the dollar amount of each contract or sale, and the date completed. If any are subcontracts, provide the name of the firm to which you subcontracted.			
1. Company or Individual:			
Address, City, State:			
Phone:	Fax:	Email:	
Description & Amount:			
2. Company or Individual:			
Address, City, State:			
Phone:	Fax:	Email:	
Description & Amount:			
3. Company or Individual:			
Address, City, State:			
Phone:	Fax:	Email:	
Description & Amount:			

16. Has this firm or other firm(s) owned by any of its current owners or officers ever been denied certification by the OMWBE or any other certifying entity (check one)? ☐ No; ☐ Yes *(If yes, provide the name of the certifying organization and the reason(s) given for denial, below. Attach copies of any relevant documents (letters, appeal documents, etc.).*

17. Debarment: Is this company, or any other company owned in full or part by any of this company's owners and/or officers, currently prohibited from doing business with the State of Delaware (i.e., license revocation or denial)? ☐ No; ☐ Yes.

18. Is the Business certified as a M/W/BE with any other certifying agency? If yes, provide the name(s) of the certifying organization(s), below, and attach letters or other documents verifying such certification.
☐ No ☐ Yes

Name	Date Certified	Expiration Date
a.		
b.		
c.		
d.		
e.		
f.		

19a. Is the business classified as a small business as identified by The regulations specifying size standards and governing their use are set forth in Title 13, Code of Federal Regulations, part 121 (13 CFR part121), Small Business Size Regulations. For more information please visit <http://www.ccr.gov/SizeStandard.aspx>
☐ No ☐ Yes

19b. Is the business registered with the Central Contractor Registration www.ccr.gov (Please provide proof of registration)
☐ No ☐ Yes

20. How did you hear about the Office of Minority and Women Business Enterprise:

<input type="checkbox"/> OMWBE staff speak at an event sponsored by another organization	<input type="checkbox"/> OMWBE staff at a trade show or expo
<input type="checkbox"/> OMWBE's web site	<input type="checkbox"/> Materials published by OMWBE
<input type="checkbox"/> Referred by another organization	<input type="checkbox"/> Referred by the owner of an MBE or WBE
<input type="checkbox"/> Delaware state employee	<input type="checkbox"/> Other, please explain briefly:

Optional Questions

You are not required to answer the following questions and the answers will not affect your company's eligibility for certification. However, the answers will help OMWBE to identify business opportunities that may be suited to your company. Answers may be estimated; exact figures aren't necessary.

For all companies
How many years has your company been conducting business with you as owner?
How many contracts, subcontracts, and/or sales has your company completed during the last 12 months?
What is the largest contract, subcontract, or sale your company completed in the past 24 months?
Has your company done any business with government? <input type="checkbox"/> No; <input type="checkbox"/> Yes
If yes, what level of government (check all that apply): <input type="checkbox"/> Federal; <input type="checkbox"/> State; <input type="checkbox"/> Local
Has your company done any business with government in the State of Delaware? <input type="checkbox"/> No; <input type="checkbox"/> Yes
Number of government contracts, subcontracts, or sales completed (estimate):
For Construction-Related Companies Only (not including suppliers of construction materials)
What is your company's bonding capacity? \$ (indicate "unknown" if you do not know)
What % of your business is direct contracting?
What % of your business is subcontracting?

State of Delaware Minority and/or Women Business Enterprise Affidavit

Hereafter, "the Business" refers to

Business Name

I understand the illegal nature of receiving public or private funds or other property as a consequence of false representation as to the minority and/or woman status of the business and do herein certify under penalty imposed by Delaware statutes that the information provided is correct and said information herein may be used for the purposes of certifying the business as a Minority and/or Women Business Enterprise. Any false representation will be grounds for denying certification or initiating decertification in the future.

I agree to make available for inspection to the MWBE office any such materials that may be required to substantiate the degree of minority and women ownership and control of the business. I agree to arrange for on-site inspections of the business' facilities in order to verify information provided in this document.

I agree to provide written information relative to any future change in ownership and/or management of the business to the MWBE office within two weeks of the occurrence of the change. I acknowledge that failure to timely submit required change of status documentation might result in the decertification of the business.

I understand that the certification expiration is three years following the initial date of certification. I further understand that the business must apply for recertification prior to the expiration.

Type or Print Name of Owner

Signature of Owner

Date

Title

Subscribed and sworn to before me this _____ day of _____ a.d.
Month, Year

Signed _____
NOTARY PUBLIC IN AND FOR THE

County of _____

State _____

My Commission Expires _____
Date

